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DES MOINES, IA 50309-4076

EXAMINER

MARANDI, JAMES R

ART UNIT

PAPER NUMBER

2421

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/595,514	<b>Applicant(s)</b> AL AMRI, MOOSA EISA	
	<b>Examiner</b> JAMES R. MARANDI	<b>Art Unit</b> 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                     |                                                                   |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                         | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

1. This action is in response to applicant's amendment filed on 9/11/2009. Claims 1-12 are presently pending. Claim 13 has been canceled.

1.1. In view of applicant's amendment to claims 4, 5, 6, 7, 11, 12, and 13, objection under 37 CFR 1.75(c) {MPEP § 608.01(n)} is hereby withdrawn.

### *Response to Arguments*

2. Applicant's arguments filed on 9/11/2009 have been fully considered but they are not persuasive.

2.1. "...***Applicant Concedes that Kusaba describes a similar system to that*** [of] ***applicant's amended claim 1, apart from the following features/ distinctions:***" (as set out in the final wherein clause of amended claim 1) Page 6 of Remarks, 3<sup>rd</sup> paragraph

2.1.1. Applicant continues that ***“Kusaba’s system as such is not arranged to select at least one channel”***. Examiner disagrees, as Kusaba’s system selects multiple channels providing the program desired by the viewer as in Fig. 4C (Col. 4, lines 6- 56). Applicant further states that ***“In Kusaba channel selection is manual.”*** Examiner disagrees. Kusaba’s channel selection allows the viewer to select amongst multiple available channels, and as such reads on applicant’s recitation of ***“in accordance with a user command”***.

2.1.2. And applicant further states: ***“Kusaba’s system is described only for distribution/ broadcast of selected videos at future times”***. Examiner disagrees. Kusaba’s disclosure does not put any limit on the input time for fields 423 (Fig. 4C), therefore, the viewer is enabled to choose present (immediate) time.

2.2. Applicant further argues that ***“Kusaba’s system is described only for pre-recorded video and only for distribution/ broadcast at future times.”*** Examiner agrees that Kusaba’s content is stored (pre-recorded) at storage 102 of the video server 101 (Fig. 1). However, applicant’s independent claims 1, and 8 do not recite any particular type of video, and as such Kusaba reads on applicant’s claims.

Examiner acknowledges that applicant recites “**live video**” in addition to stored and recorded videos in dependent claims 2 and 9. Though Kusaba's server is silent on handling "live videos", Murphy's servers (as shown in Fig. 5) are disclosed to serve **live** and **stored** videos. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system (server of) Kusaba with Murphy's Invention (server authorizing and serving various modes of video) in order to offer the viewer a wide range of programming choices.

2.3. Examiner observes that applicant's claim 1, as written does not impart a fully automated channel selection by the system, as applicant recites (last wherein clause) “**in correspondence with a user command**”. Furthermore, automatic channel selection, without user command, is not disclosed within applicant's disclosure. Per MPEP 2106 (II C), Examiner is bound to give claims their broadest reasonable interpretation in light of the disclosure. In this case, applicant's arguments are neither reflected in the claims, nor disclosed.

2.4. Furthermore, Examiner observes that it appears applicant is equating “**live broadcast**” with “**immediate broadcast**”. Page 7 of Remarks, 3<sup>rd</sup> paragraph, 1<sup>st</sup> two lines

Though, MPEP allows the applicant to be their own lexicographer (see MPEP 2111.01 (IV)), such allowance is made for the disclosure and claims as filed, and not the arguments presented afterwards. Examiner points out that selection of a channel, with no delay, within Kusaba's system will provide the viewer with the stored program **immediately** (as recited in claim 1). As described above, Murphy modifies Kusaba for inclusion of live programming.

2.5. Applicant further argues against combination of Kusaba and Murphy, and

***“reiterates that skilled person is not guided by Kusaba's disclosure, which is limited to stored video data, to perceive the usefulness of Murphy's live video collection in Kusaba's disclosure. Moreover, Murphy's disclosure pertains to video-on-demand only for Internet distribution; Murphy has not recognized the potential for video-on-demand for live videos by TV transmission. Therefore the skilled person has no guidance or incentive to combine the two disclosures and has no reason for combining the disclosures.”*** Page 8 of remarks, 3<sup>rd</sup> paragraph

Examiner disagrees. Kusaba's video storage (102) attached to the video server (101) includes recorded videos and video-on-demand but does not disclose live broadcasts. Furthermore, Kusaba's disclosure of the server (111) does not

explicitly mention an authorization server, even though it is reasonable that only authorized users (paid subscribers) have access to the system.

Murphy reference was introduced since Murphy's Master Server (Fig. 5) allows connectivity to live broadcast (with authorization capability). See Col. 12, lines 12-63

Therefore, it would have been obvious to an artisan, at the time of invention, to modify Kusaba's system (Server 101) with Murphy's invention (Master server) in order to allow the viewers access to more content while allowing the service providers to expand their plethora of services.

2.6. Applicant argues that the combination of Kusaba and Murphy "**would not lead to applicant's invention as claimed**" (Page 8 of Remarks, 3<sup>rd</sup> paragraph, last line). It appears that applicant is basing this conclusion on "**Murphy remains silent on how the video content and transmission channel is selected**", and attempts to argue against Kusaba and Murphy individually. Page 7 of Remarks, last paragraph

Per MPEP 2141 part III, Prior art is not limited just to the references being applied, but includes the understanding of one of ordinary skill in the art. The prior art reference (or references when combined) need not teach or suggest all the claim limitations. The “mere existence of differences between the prior art and an invention does not establish the invention’s nonobviousness.” *Dann v. Johnston*, 425 U.S. 219, 230, 189 USPQ 257, 261 (1976). The gap between the prior art and the claimed invention may not be “so great as to render the [claim] nonobvious to one reasonably skilled in the art.” *Id.* In determining obviousness, neither the particular motivation to make the claimed invention nor the problem the inventor is solving controls. The proper analysis is whether the claimed invention would have been obvious to one of ordinary skill in the art after consideration of all the facts.

Examiner points out that Kusaba's video distribution server 101 is connected to and networked via internet (Fig. 2, 16). Therefore, one skilled in the art would have recognized that such server could also be enabled by Murphy's disclosure to serve live videos, while ensuring proper viewer's credentials (authorization).



***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1- 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over T. Kusaba et al., US Patent No. 6,510,556 (hereinafter "Kusaba") in view of G. Murphy, US Patent No. 6,564,380 (hereinafter "Murphy"). Both references were disclosed by the applicant in IDS of 4/25/06.

4.1. Regarding claim 1, Kusaba discloses: **A system for enabling video content** (Fig. 2, stored on 102, and served by server 101) **to be selected by a user** (menu system of Figs. 4) **via the Internet (16) and for distributing selected video content via a multichannel video broadcasting system (112, 13, 121), for the selected video content to be received on a multichannel receiver (121,122) and displayed at the user's location on a TV monitor (125) or on a**

**PC provided with a TV display card (123), the system (Abstract, Col. 1, lines 5-14) comprising:**

**a main video server (101) for supplying a plurality of selectable video contents (as stored on 102);**

**a server (101) accessible via the Internet (16) for a user to transmit user commands (via network attached PC 123) to select video contents (sequence of commands are shown in Fig. 3) that are to be displayed immediately or with a delay (several available channels and time slots showing title A, as shown in Fig. 4C. The user selects the start time therefore selecting the delay or immediacy of play time as desired/ available);**

**a multichannel video broadcasting apparatus (112, 13); and**

**a distribution server (111, which not only comprises video server 101, but also corresponding scheduler and commander) for supplying, from the main video server (101) to the broadcasting apparatus (112), selected video contents (as selected by the users 123 through 16 and 105/106 to be broadcast on channels of the broadcasting apparatus (112,13,121);**

**the system being arranged to select at least one channel that is available to broadcast a selected video content (user selects desired channel showing Title A, as in Fig. 4C, via 422) immediately or with a delay in correspondence with a user command (several available channels and time slots showing title A, as shown in Fig. 4C. The user selects the start time therefore selecting the delay or immediacy of play time as desired/ available),**

**and to provide an indication of the selected channel(s) available to broadcast the selected video content** (Ch. 1-7 as shown in Fig. 4C), **said indication of the selected channel(s) being available to the user via a server (111) and the Internet (16)** and as shown on user selection menu system of Figs 4; **and**

**the system being arranged to initiate the broadcast of a selected video content** (Title A, Fig. 4C) **on the indicated available channel** (any selected channel, e.g. 1-7) **immediately or with a delay in correspondence with said user command**(several available channels and time slots showing title A, as shown in Fig. 4C. The user selects the start time therefore selecting the delay or immediacy of play time as desired/ available. It should be noted that the provider is able to set the level of this immediacy for an added fee. For example, as disclosed in Col.4 line 63 through Col. 5, line 9, the provider may allow the user to select a movie and join a previously reserved movie for an added charge immediately). (Col. 3. lines 66-67; Col. 4, lines 1-62);

**wherein the distribution server (101/111) is arranged to provide automated selection of a channel that is available** (list of channels available for the desired program, e.g. Title A, is shown in Fig. 4C) **to broadcast immediately or with a delay in correspondence with a user command** (the user selects/ commands the delay per 423. User is not precluded from entering an input start time: NOW), **or a partly automated selection of a channel assisted by a user command by automated selection of several channels**

**available to broadcast immediately or with a delay in correspondence with a user command followed by the user selecting one among the several selected available channels** (server 101/111 ,based on user selection of Title A, determines availability of channels enabled to broadcast said program and offers the viewer a menu, Fig. 4C, to select the channel and the timing of the said broadcast. See Col. 4, lines 7- 62

Kusaba's disclosure of the server (video server 101, and distributing apparatus 111) does not explicitly mention an **authorization server**, even though it is reasonable that only authorized users (paid subscribers) have access to the system.

However, Murphy discloses a Master Server (Fig. 5) which performs authorization. See Col. 12, lines 12-63

Therefore, it would have been obvious to an artisan, at the time of invention, to modify Kusaba's system (Server 101) with Murphy's invention (Master server) in order to allow for proper authorization of the viewers and controlled access content.

4.1.1. Regarding claim 2, the Kusaba discloses **wherein the main video server (101/111) supplies recorded videos and video-on-demand** (see Abstract, and Col. 1 lines 5- 61. The video stored in storage 102 is served/ distributed by server 101). Kusaba is not explicit in distributing **live broadcasts/** videos.

However, Murphy's Master Server (Fig. 5) allows connectivity to/ distribution of **live broadcast** (in addition to stored/ VOD programs). See Col. 12, lines 12-63

Therefore, it would have been obvious to an artisan, at the time of invention, to modify Kusaba's system (Server 101) with Murphy's invention (Master server) in order to allow the viewers access to a wide range of programming choices, allowing the service providers to expand their plethora of service options.

4.1.2. Regarding claim 3, the system of Kusaba and Murphy discloses **wherein the multichannel video broadcasting apparatus is a digital broadcasting apparatus having a broad bandwidth with several hundreds of channels** (Kusaba: Fig. 2, 112, 13, 121. Satellites are digital broadcasting apparatus with broad bandwidth).

4.1.3. Regarding claim 4, the system of Kusaba and Murphy discloses **wherein the multichannel video broadcasting apparatus comprises a cable TV network.** (Kusaba, Fig. 8, 118, 17)

4.1.4. Regarding claim 5, the system of Kusaba and Murphy discloses **wherein the multichannel video broadcasting apparatus comprises a ground transmission station** (Kusaba, Fig. 2, 11, 112) **arranged to transmit to a communication satellite** (Kusaba 13).

4.1.5. Regarding claim 6, the system of Kusaba and Murphy discloses **wherein the distribution server** (Kusaba: 101/111) **is arranged to provide automated selection of a channel that is available** (Kusaba: list of channels available for the desired program, e.g. Title A, is shown in Fig. 4C) **to broadcast immediately or with a delay in correspondence with a user command** (Kusaba: the user selects/ commands the delay per 423. User is not precluded from entering an input start time: NOW)

4.1.6. Regarding claim 7, the system of Kusaba and Murphy discloses **a processing system** (servers have processing capability, for example, in

Kusaba, 105 communicates/ receives viewers commands) , **connected with the main authorization server to operate the main video server**

(Kusaba's 105 in conjunction with 106 operates the video server 101.

Murphy's authorization server, interfaces with the viewer (part of Kusaba's 111) to authorize distribution of content and its broadcast to the viewer (see Abstract, 5<sup>th</sup>- 14<sup>th</sup> lines).

4.2. Regarding claim 8, Kusaba discloses **A method for enabling a user to select a video content** (Fig. 2, stored on 102, and served by server 101) **via the Internet (16) and for distributing selected video content via a multichannel video broadcasting system (112, 13, 121) for the selected video content to be received on a multichannel receiver (122) and displayed at the user's location on a TV monitor (125) or on a PC provided with a TV display card (123), the method comprising:**

**Selecting, from a plurality of selectable video contents that are stored on a main video server** (as stored on 102, and served by 101), **video contents that are to be displayed immediately or with a delay** (several available channels and time slots showing title A, as shown in Fig. 4C. The user selects the start time therefore selecting the delay or immediacy of play time as desired/ available), **in response to user commands transmitted via the**

**internet** (video server 101 is accessible to the user's home system 12, via internet 16, and command menu system shown in Figs. 4) ;

**Supplying selected video content from the main video server (101) to a multichannel video broadcasting apparatus (112, 13), for the selected video content to be broadcast on an available channel of the broadcasting apparatus (102, 101; 400);**

**providing a selection of at least one channel that is available to broadcast the selected video content immediately or with a delay in correspondence with said user command.** (The user selects the start time therefore selecting the delay or immediacy of play time as desired/ available, based on available channels and time slots showing title A, as shown in Fig. 4C)

**providing an indication of the selected channel available to broadcast the selected video content** (Fig. 4C, shows available channels 1-7, and user makes a selection via 422), **said indication being available to the user via the internet** (Menu system of Figs. 4 is available on users PC 123 via 16); **and**

**initiating the broadcast of a selected video content on an indicated channel immediately or with a delay in correspondence with said user command** (several available channels and time slots showing title A, as shown in Fig. 4C. The user selects the start time therefore selecting the delay or immediacy of play time as desired/ available. It should be noted that the provider is able to set the level of this immediacy for an added fee. For example, as



disclosed in Col.4 line 63 through Col. 5, line 9, the provider may allow the user to select a movie and join a previously reserved movie for an added charge immediately). (Col. 3. lines 66-67; Col. 4, lines 1-65)

**wherein the distribution server (101/111) is arranged to provide automated selection of a channel that is available** (list of channels available for the desired program, e.g. Title A, is shown in Fig. 4C) **to broadcast immediately or with a delay in correspondence with a user command** (the user selects/ commands the delay per 423. User is not precluded from entering an input start time: NOW), **or a partly automated selection of a channel assisted by a user command by automated selection of several channels available to broadcast immediately or with a delay in correspondence with a user command followed by the user selecting one among the several selected available channels** (server 101/111 ,based on user selection of Title A, determines availability of channels enabled to broadcast said program and offers the viewer a menu, Fig. 4C, to select the channel and the timing of the said broadcast. See Col. 4, lines 7- 62

Kusaba's disclosure of the server (111) does not explicitly mention an **authorization server**, even though it is reasonable that only authorized users (paid subscribers) have access to the system.

However, Murphy discloses a Master Server (Fig. 5) which performs authorization. See Col. 12, lines 12-63

Therefore, it would have been obvious to an artisan, at the time of invention, to modify Kusaba's system (Server 101) with Murphy's invention (Master server) in order to allow for proper authorization of the viewers and controlled access content.

Kusaba also does not disclose **automated selection of a channel available to broadcast immediately or with a delay in correspondence with a user command**

However, Murphy discloses a video server automatically creating a web page (channel) and automatically linking all requested video feeds (content) to said web page/ channel for immediate showing to the requesting user (Col. 4, line 64 through Col. 5, line 13).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify Kusaba's partly automated system of channel selection, with Murphy's automated invention in order to increase/ improve user convenience.

4.2.1. Regarding claim 9, the Kusaba discloses wherein the main video server (101/111) supplies **recorded videos and video-on-demand** (see Abstract, and Col. 1 lines 5- 61. The video stored in storage 102 is served/ distributed by server 101). Kusaba is not explicit in distributing **live broadcasts**/ videos.

However, Murphy's Master Server (Fig. 5) allows connectivity to/ distribution of **live broadcast** (in addition to stored/ VOD programs). See Col. 12, lines 12-63

Therefore, it would have been obvious to an artisan, at the time of invention, to modify Kusaba's system (Server 101) with Murphy's invention (Master server) in order to allow the viewers access to a wide range of programming choices, allowing the service providers to expand their plethora of service options.

4.2.2. Regarding claim 10, the system of Kusaba and Murphy discloses **wherein the selected video contents are broadcast on a channel selected from a broad bandwidth with several hundreds of channels** (Kusaba: Fig. 2, 112, 13, 121. Satellites are digital broadcasting apparatus with broad bandwidth).

4.2.3. Regarding claim 11, the system of Kusaba and Murphy discloses **wherein the selected video contents are broadcast on a channel of a cable TV network.** (Kusaba, Fig. 8, 118, 17)

4.2.4. Regarding claim 12, the system of Kusaba and Murphy discloses **wherein the selected video contents are broadcast via a ground transmission station** (Kusaba, Fig. 2, 11, 112) **that transmits to a communication satellite** (Kusaba 13).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. MARANDI whose telephone number is (571)270-1843. The examiner can normally be reached on 8:00 AM- 5:00 PM M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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